



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2012-1066]

Final Guidance Regarding Voluntary Inspection of Vessels  
for Compliance with the Maritime Labour Convention, 2006

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability

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SUMMARY: The Coast Guard announces the availability of Navigation and Vessel Inspection Circular (NVIC) 02-13, that sets forth the Coast Guard's policies and procedures regarding the inspection of U.S. vessels for voluntary compliance with the Maritime Labour Convention, 2006 (MLC or Convention). The Convention enters into force on August 20, 2013. The purpose of NVIC 02-13 is to provide guidance to the maritime industry, Coast Guard marine inspectors, and other affected parties on how the Coast Guard intends to implement the new voluntary inspection program. The Coast Guard finalized NVIC 02-13 after considering public comments received in response to our publication of a draft version of NVIC 02-13 in the Federal Register on February

11, 2013.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail Lieutenant Commander Christopher Gagnon, Coast Guard at [cg-cvc-1@uscg.mil](mailto:cg-cvc-1@uscg.mil); telephone 202-372-1224. If you have questions on viewing material in the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

A. Viewing the NVIC and public comment matrix

To view the NVIC, public comment matrix, and comments mentioned in this notice as being available in the docket, please go to <http://www.regulations.gov>, and follow the instructions on that website. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

B. Background and Purpose

The 94<sup>th</sup> (Maritime) session of the International Labour Conference (Geneva, February 2006) adopted the MLC, a new international agreement that consolidates almost all of the

70 existing International Labour Organization maritime labour instruments into a single, modern, globally applicable legal instrument. The Convention establishes comprehensive minimum requirements for working conditions of seafarers, including, among other things, conditions of employment, hours of work and rest, accommodations, recreational facilities, food and catering, health protection, medical care, welfare, and social security protection. It combines rights and principles with specific standards and detailed guidance on how to implement these standards at the national level. The Convention is comprised of three different, but related parts: the Articles, the Regulations, and the Code. The Articles and Regulations set out the core rights and principles, and the basic obligations of members ratifying the Convention. The Code is comprised of a Part A (mandatory standards) and a Part B (non-mandatory guidelines).

To date, the U.S. Government has not ratified the Convention. Unless and until the U.S. Government ratifies the Convention, the Coast Guard cannot enforce Convention requirements on U.S. vessels or foreign vessels while on the navigable waters of the U.S.

Article V, paragraph 7 of the Convention contains a "no more favorable treatment clause," which requires the governments of ratifying nations to impose Convention requirements on vessels from non-ratifying nations. As a result, a U.S. vessel that is not able to demonstrate voluntary compliance with the standards of the Convention may be at risk for Port State Control actions (including detention) when operating in a port of a ratifying nation.

To assist owners and operators of U.S. vessels in avoiding these risks, NVIC 02-13 sets forth guidance on a voluntary inspection program for vessel owners/operators who wish to document compliance with the standards of the MLC. U.S. commercial vessels that operate on international routes, meaning those vessels that will enter the ports of countries that are parties to the MLC, are encouraged to participate. Those vessels not engaging on international voyages are not affected.

In finalizing NVIC 02-13, the Coast Guard utilized measures identified in the MLC, including determinations that vessels will be deemed compliant with the MLC based on evidence of their compliance with substantially equivalent U.S. laws, regulations and other measures. The Coast Guard's use of such equivalencies is intended to help vessels streamline their compliance efforts so that, where

appropriate, a vessel's compliance with domestic requirements also meets the standards of the MLC.

Should the U.S. Government ratify the MLC, its applicability may cover a broader population of vessel owners/operators than that addressed in NVIC 02-13. At that time, the Coast Guard would consider whether new or revised guidance is necessary.

#### C. Final NVIC and response to comments

On February 11, 2013, the Coast Guard published a notice in the Federal Register announcing the availability of a draft NVIC 02-13 and requesting public comments. (See 78 FR 9709).

We received 29 comment letters in response to the February 11, 2013 Federal Register notice. These comment letters contained a total of approximately 200 recommendations, suggestions, and other comments. We have created a document that provides a summary of each comment and the corresponding Coast Guard response. A copy of this public comment matrix is available for viewing in the public docket for this notice. You may access the docket by going to <http://www.regulations.gov>, using "USCG-2012-1066" as your search term, and following the instructions in the ADDRESSES section above.

The basic ideas and principles encompassed in draft NVIC 02-13 remain. The Coast Guard has made some changes from the draft NVIC to the final version based on public comments. A brief discussion of the most important changes is included below. For a more in-depth discussion of the individual comments submitted, please visit the docket for this notice to view submitted comments and the public comment matrix.

(1) We received several comments urging us to incorporate "substantial equivalencies" so that vessels can demonstrate that they meet the requirements of the MLC via their compliance with equivalent U.S. laws, regulations and other measures. The Coast Guard agrees that the Convention authorizes the use of national laws or other measures conforming to the MLC requirements to demonstrate compliance with the standards of the Convention. We have amended the NVIC, where applicable, to include such equivalencies.

(2) Several commenters mentioned that the MLC definition of the term "seafarer" is very broad and can be unclear to a ship operator. For example, they stated that in the offshore mineral/energy sector, vessels host many types of personnel that are neither credentialed nor traditional mariners, and therefore, should not be covered

by the MLC requirements. In response, we have added a separate definitions enclosure to NVIC 02-13, which provides guidance on the term "seafarer" consistent with ILO Resolution VII, Concerning Information on Occupational Groups.

(3) A number of commenters requested either clarification or deletion of the Job Aid enclosure we included with draft NVIC 02-13. Specifically, these commenters stated that the Job Aid unnecessarily duplicated other parts of the NVIC and did not adequately address equivalencies to meet MLC standards. After considering these comments, we have removed the Job Aid from NVIC 02-13.

(4) One commenter was concerned that the draft NVIC did not provide adequate guidance on how to meet the MLC standards for ships cook competency. To address this concern, we have provided a separate enclosure to the NVIC that clarifies MLC guidance on this issue.

(5) Commenters also raised concerns that the draft NVIC did not provide enough guidance regarding two issues: on board complaint procedures; and how to determine what types of activities would be considered hazardous to seafarers under the age of 18. To address these concerns,

we have added separate enclosures that provide additional guidance on these issues.

NVIC 02-13 contains a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA). This collection of information has been submitted to the Office of Management and Budget (OMB) for review in accordance with the PRA. An agency may not conduct a collection of information unless the collection of information displays a valid control number assigned by OMB. You do not need to respond to a collection of information unless it displays a currently valid control number from OMB. Before the Coast Guard could enforce the collection of information referenced in this notice, OMB would need to approve the Coast Guard's pending request to collect this information.

#### Authority

This notice is issued under authority of 33 U.S.C. 1221(c)(3) and 5 U.S.C. 552(a).

Date: July 30, 2013

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